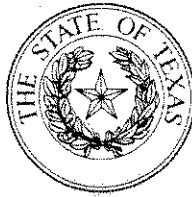


# State Office of Administrative Hearings



Cathleen Parsley  
Chief Administrative Law Judge

July 31, 2014

Anne Idsal, General Counsel  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin Texas 78711-3087

Re: **SOAH Docket No. 582-14-1792; TCEQ Docket No. 2013-1088-PWS-E; In Re: Executive Director of the Texas Commission on Environmental Quality v. Leroy Moody and Ernestine L. Moody d/b/a Leroy's Mobile Home Park**

Dear Ms. Idsal:

The above-referenced matter will be considered by the Texas Commission on Environmental Quality on a date and time to be determined by the Chief Clerk's Office in Room 201S of Building E, 12118 N. Interstate 35, Austin, Texas.

Enclosed are copies of the Proposal for Decision and Order that have been recommended to the Commission for approval. Any party may file exceptions or briefs by filing the documents with the Chief Clerk of the Texas Commission on Environmental Quality no later than August 20, 2014. Any replies to exceptions or briefs must be filed in the same manner no later than September 2, 2014.

This matter has been designated **TCEQ Docket No. 2013-1088-PWS-E; SOAH Docket No. 582-14-1792**. All documents to be filed must clearly reference these assigned docket numbers. All exceptions, briefs and replies along with certification of service to the above parties shall be filed with the Chief Clerk of the TCEQ electronically at <http://www10.tceq.state.tx.us/epic/efilings/> or by filing an original and seven copies with the Chief Clerk of the TCEQ. Failure to provide copies may be grounds for withholding consideration of the pleadings.

Sincerely,

A handwritten signature in black ink that reads "Rebecca S. Smith". The signature is fluid and cursive.

Rebecca S. Smith  
Administrative Law Judge

RSS/Ls  
Enclosures  
cc: Mailing List

**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**AUSTIN OFFICE**

**300 West 15th Street Suite 502**

**Austin, Texas 78701**

**Phone: (512) 475-4993**

**Fax: (512) 322-2061**

**SERVICE LIST**

**AGENCY:** Environmental Quality, Texas Commission on (TCEQ)

**STYLE/CASE:** LEROY MOODY & ERNESTINE MOODY AS TRUSTEES OF  
MOODY REVOCABLE LIVING TRUST DBA LEROY'S MOBILE  
HOME PARK

**SOAH DOCKET NUMBER:** 582-14-1792

**REFERRING AGENCY CASE:** 2013-1088-PWS-E

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**STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

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**ADMINISTRATIVE LAW JUDGE  
ALJ REBECCA SMITH**

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**REPRESENTATIVE / ADDRESS**

**PARTIES**

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TCEQ EXECUTIVE DIRECTOR

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LEROY & ERNESTINE MOODY  
TRUSTEES  
d/b/a/ LEROYS MOBILE HOME PARK  
1 PARKWOOD STREET  
TEXARKANA, TX 75501

d/b/a/ LEROYS MOBILE HOME PARK

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**SOAH DOCKET NO. 582-14-1792  
TCEQ DOCKET NO. 2013-1088-PWS-E**

**EXECUTIVE DIRECTOR OF THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY,  
Petitioner**

**v.**

**LEROY MOODY AND ERNESTINE L.  
MOODY D/B/A LEROY'S MOBILE  
HOME PARK,  
Respondents**

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**BEFORE THE STATE OFFICE**

**OF**

**ADMINISTRATIVE HEARINGS**

**PROPOSAL FOR DECISION**

**I. INTRODUCTION**

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission) alleges that Leroy Moody and Ernestine L. Moody d/b/a Leroy's Mobile Home Park (Moody's) violated the Texas Water Code and the Texas Administrative Code by failing to provide the results of various kinds of water testing to the ED. The ED requests that the Commission assess an administrative penalty of \$873 for these violations and order the Respondents to take corrective action. The Moodys admit they did not comply with the testing requirements, but instead argue that they should not have to do so.

The Administrative Law Judge (ALJ) finds that the Moodys committed the alleged violations and that the proposed penalty and corrective actions are just and in accordance with applicable law and the ED's Penalty Policy. The ALJ recommends that the Commission assess the penalty and order the corrective action recommended by the ED.

## II. PROCEDURAL HISTORY

Notice was not disputed. The attached proposed order contains the required findings of fact and conclusions of law concerning notice.

The hearing convened on June 19, 2014, before ALJ Rebecca S. Smith in the William P. Clements Building, 300 West 15th Street, Fourth Floor, Austin, Texas. The ED was represented by attorney Ryan Rutledge. The Moodys appeared on their own behalf. The record closed on the date of the hearing.

Because the Moodys did not provide the ED with their financial information to support their claims of an inability to pay a penalty before the hearing, they waived that issue and were not permitted to introduce evidence about it.<sup>1</sup> Additionally, the ALJ granted the ED's motion for sanctions, which prevented the Moodys from presenting as evidence documents that were responsive to the ED's discovery requests, but that were not provided to the ED.

## III. ALLEGED VIOLATION

### A. Background

The Moodys own and operate a water system located at 1 Parkwood Street in Texarkana, Bowie County, Texas (Facility). The Facility uses a groundwater source for its water. The Facility provides water for human consumption, has approximately 20 service connections, and serves at least 25 people per day for at least 60 days per year.<sup>2</sup> As a result, the Facility is a public water system as defined in 30 Texas Administrative Code § 290.38(66), which defines a public

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<sup>1</sup> See 30 Tex. Admin. Code § 70.8(b).

<sup>2</sup> In their request for hearing, the Moodys indicated that, as of November 12, 2013, they had 16 service connections and 27 residents in their mobile home park. ED Ex. B. During the investigation, Mr. Moody indicated that there were 20 service connections. ED Ex. 6.

water system as a facility that has 15 service connections and serves at least 25 people per day for at least 60 days per year.

While not contradicting the number of service connections or the number of people served, the Moodys challenge the TCEQ's jurisdiction. They introduced into evidence fifteen notes signed by their tenants. The notes all state the following:

We are petitioning to keep Leroy's Mobile Home Park on a private well. We do not want a public water system. We, as tenants, [cannot] afford for our lot rent to be raised to cover the high expense of water testing with the Texas Commission on Environmental Quality (TCEQ). We are aware that the coliform monitoring of the well is currently being tested each month at the Texarkana Water Utilities Laboratory. We are pleased with the water system and quality of our water.<sup>3</sup>

The Moodys argue that these tenants have all opted out of TCEQ regulation by not wanting their water to be tested and that accordingly, there are fewer people and connections than required to meet the definition of a public water system.

The ALJ does not find the Moodys' argument persuasive. The definition of a public water system does not depend on customers opting in or out of having their water tested. The Facility is a public water system subject to TCEQ regulation.

**B. ED's Evidence of Violation**

The TCEQ's regulations require a public water system to perform sampling and report the results of that sampling. At hearing, the ED alleged the following violations relating to the failure to report the test results:

1. Failure to submit a Disinfectant Level Quarterly Operating Report to the ED in the second quarter of 2011;

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<sup>3</sup> Respondents Ex. 5.

2. Failure to submit a Disinfectant Level Quarterly Operating Report to the ED from the third quarter of 2011 to the fourth quarter of 2012;
3. Failure to provide the results of annual nitrate and Stage 1 disinfectant byproducts sampling to the ED for the 2012 monitoring period;
4. Failure to provide the results of triennial metals, minerals, synthetic organic chemical contaminants, and volatile organic chemical contaminants sampling to the ED for the January 1, 2010 through December 31, 2012 monitoring period.

In support of its allegations, the ED offered as evidence several documents and the testimony of Sally Paramo, a natural resources investigator with the TCEQ's water supply division. Ms. Paramo testified that she conducted a record review of the Facility. She determined that the Facility met the definition of a public water system and that the ED did not have records of the testing results that the Moodys were required to submit. She also testified about the various rules that require the testing.

In particular, the following rules are relevant:

- 30 Texas Administrative Code § 290.110(e)(4)(A), which requires public water systems that use groundwater sources to submit a Disinfection Level Quarterly Operating Report each quarter, by the tenth day of the month following the end of the quarter;<sup>4</sup> and
- 30 Texas Administrative Code §§ 290.106(e), 290.107(e), and § 290.113(e), which require that, upon the request of the ED, the owner or operator of a public water system must provide the ED with a copy of any required test by the later of ten days after their receipt by the public water system or ten days after the ED's request.

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<sup>4</sup> A public water system that fails to report the results of the required monitoring tests commits a reporting violation. 30 Tex. Admin. Code § 290.110(f)(3).

Ms. Paramo testified that the required tests are annual nitrate tests, annual Stage 1 disinfectant tests,<sup>5</sup> triennial metals tests,<sup>6</sup> triennial minerals tests,<sup>7</sup> triennial synthetic organic chemical contaminants tests,<sup>8</sup> and triennial volatile organic chemicals tests.<sup>9</sup>

As a result of the investigation, the ED issued a Notice of Enforcement on May 29, 2013, to inform the Moodys of the violations and to request that they take immediate action to correct them.

The ED presented evidence that the Moodys never provided him with copies of the test results after he requested them. The Moodys do not disagree. They argue that the tests are unnecessary and expensive, that their water tastes better than the City of Texarkana water, and that the TCEQ's testing requirements are contrary to the Constitution. They also contend that the stress of dealing with the TCEQ has caused them serious health problems. They do not contend that they have conducted any testing, other than coliform testing, which is not at issue here. Therefore, the ED has established that the Moodys violated the rules requiring them to report test results.

#### IV. PROPOSED PENALTY

Samuel Keller, an enforcement coordinator for the TCEQ, testified and presented the ED's proposed penalty. Mr. Keller explained the ED's Penalty Policies at issue and the Penalty Calculation Worksheets used to calculate the proposed penalty in this matter.

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<sup>5</sup> 30 Tex. Admin. Code § 290.113(c)(3).

<sup>6</sup> 30 Tex. Admin. Code § 290.106(c)(4)(A).

<sup>7</sup> 30 Tex. Admin. Code § 290.106(c)(4)(A).

<sup>8</sup> 30 Tex. Admin. Code § 290.107(c)(1)(C)(iii).

<sup>9</sup> 30 Tex. Admin. Code § 290.107(c)(2)(C)(iii).

Two different Penalty Policies are relevant here. The first Penalty Policy was adopted in October 2002.<sup>10</sup> The second became effective on September 1, 2011.<sup>11</sup> The ED alleged violations that occurred before and after September 1, 2011. Mr. Keller used the older policy to calculate the proposed penalty for the violations that occurred before that date, and the newer one to calculate the proposed penalty for the violations that occurred after.

The violation that falls under the 2002 penalty policy is failure to submit a disinfectant level quarterly operating report to the ED for the second quarter of 2011. The Facility is characterized as a minor source because it has fewer than 1,100 connections. The base penalty was \$1,000. Using the programmatic matrix, Mr. Keller determined that the violation was a major violation because 100% of the requirement was not met. This meant that the adjusted base penalty was 10% of the base, or \$100. Mr. Keller classified the violation as one quarterly event. He made no adjustments for good faith efforts to comply, compliance history, or culpability. He enhanced the proposed penalty by \$23 to capture the avoided costs of compliance. The total proposed penalty under the 2002 Penalty Policy is therefore \$123.<sup>12</sup>

The other three violations fall under the 2011 Penalty Policy.<sup>13</sup> For the failure to submit a disinfectant level quarterly operating report to the ED for the third quarter of 2011 through the fourth quarter of 2012, the base penalty was \$1,000. Using the programmatic matrix, Mr. Keller determined that the violation was a major violation because 100% of the requirement was not met. Under the 2011 policy, this meant that the adjusted base penalty was 5% of the base, or \$50. Mr. Keller classified the violation as six quarterly events, for a violation subtotal of \$300.

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<sup>10</sup> ED Ex. 12.

<sup>11</sup> ED Ex. 13.

<sup>12</sup> ED Ex. 10.

<sup>13</sup> ED Ex. 11.



For the failure to provide the results of annual nitrate and Stage 1 disinfectant byproducts sampling to the ED for the 2012 monitoring period, the base penalty was \$1,000. Using the programmatic matrix, Mr. Keller determined that the violation was a major violation. Under the 2011 policy, this meant that the adjusted base penalty was 5% of the base, or \$50. Mr. Keller classified the violation as two annual events, for a violation subtotal of \$100.

For the failure to provide the results of the triennial metals, minerals, synthetic organic chemical contaminants, and volatile organic chemical contaminants sampling to the ED for the January 1, 2010 through December 31, 2012 monitoring period, the base penalty was \$1,000. Using the programmatic matrix, Mr. Keller determined that the violation was a major violation. Under the 2011 policy, this meant that the adjusted base penalty was 5% of the base, or \$50. Mr. Keller classified this as four single events, for a violation subtotal of \$200.

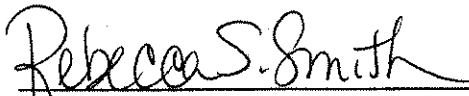
The three violations under the 2011 Penalty Policy result in a subtotal of \$600. For all three violations, Mr. Keller made no adjustment for compliance history, culpability, or good faith effort to comply. He enhanced the \$600 subtotal by 25% (or \$150) to capture the avoided costs of compliance for failure to submit the Disinfectant Level Quarterly Operating Report. These three violations resulted in a proposed penalty of \$750. When added to the proposed \$123 penalty under the previous Penalty Policy, the total requested penalty is \$873. The ALJ concludes that the proposed penalty complies with applicable law and the Penalty Policy. That said, the ALJ would recommend offering the Moodys a payment plan.

The ED also seeks corrective action in this matter. As corrective action, the ED seeks to require that the Moodys report all required testing results and establish a compliance schedule, along with requiring training. Although the Moodys object to having to perform the testing, the ED's requested corrective action appears reasonable.

**V. SUMMARY**

The ALJ recommends that the Commission adopt the attached proposed order, assessing the Moodys a total of \$873 in penalties for the violations proven in this case and requiring the Moodys to take the corrective actions proposed by the ED.

**SIGNED July 31, 2014.**

  
REBECCA S. SMITH  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**AN ORDER ASSESSING ADMINISTRATIVE PENALTIES AGAINST  
LEROY MOODY AND ERNESTINE L. MOODY D/B/A LEROY'S MOBILE HOME  
PARK  
TCEQ DOCKET NO. 2013-1088-PWS-E  
SOAH DOCKET NO. 582-14-1792**

On \_\_\_\_\_, the Texas Commission on Environmental Quality (Commission or TCEQ) considered the Executive Director's Second Amended Report and Petition (EDSARP) recommending that the Commission enter an enforcement order assessing administrative penalties against Leroy Moody and Ernestine L. Moody d/b/a Leroy's Mobile Home Park (Respondents). Rebecca S. Smith, an Administrative Law Judge (ALJ) with the State Office of Administrative Hearings (SOAH), conducted an evidentiary hearing on this matter on June 19, 2014, in Austin, Texas, and presented the proposal for decision.

The following are parties to the proceeding: The Respondents, the Commission's Executive Director (ED), and the Office of Public Interest Counsel.

After considering the ALJ's proposal for decision, the Commission adopts the following findings of fact and conclusions of law.

## **I. FINDINGS OF FACT**

1. Respondents own and operate a public water system located at 1 Parkwood Street in Texarkana, Bowie County, Texas (Facility).

2. The Facility provides water for human consumption, has approximately 20 service connections, and serves at least 25 people per day for at least 60 days per year.
3. The ED conducted a record review on May 6, 2013, and documented violations.
4. Respondents failed to submit a Disinfectant Level Quarterly Operating Report to the ED for the second quarter of 2011 by the tenth day of the month following the end of the quarter.
5. Respondents failed to submit a Disinfectant Level Quarterly Operating Report to the ED for the third quarter of 2011 through the fourth quarter of 2012 by the tenth day of the month following the end of the quarter.
6. Respondents failed to provide the results of annual nitrate and Stage 1 disinfectant byproducts sampling to the ED for the 2012 monitoring period.
7. Respondents failed to provide the results of triennial metals, minerals, synthetic organic chemical contaminants, and volatile organic chemical contaminants sampling to the ED for the January 1, 2010 through December 31, 2012 monitoring period.
8. On May 29, 2013, the ED issued a Notice of Enforcement.
9. On November 1, 2013, the ED issued his Preliminary Report and Petition.
10. On May 30, 2014, the ED issued his EDSARP.
11. The Commission has adopted a Penalty Policy setting forth its policy regarding the computation and assessment of administrative penalties, effective September 1, 2002.
12. The Commission has adopted a Penalty Policy setting forth its policy regarding the computation and assessment of administrative penalties, effective September 1, 2011.
13. The ED recommends the imposition of an administrative penalty in the amount of \$873 and corrective action to bring the Facility into compliance.
14. On November 12, 2013, Respondents requested a contested case hearing on the allegations in the EDPRP.
15. On January 17, 2014, the case was referred to SOAH for a hearing.
16. On January 27, 2014, the Commission's Chief Clerk issued notice of the preliminary hearing to all parties, which included the date, time, and place of the hearing, the legal authority under which the hearing was being held, and the violations asserted.
17. ALJ Rebecca S. Smith convened the hearing on the merits on June 19, 2014, in SOAH's hearing rooms in Austin, Texas.

18. The ED was represented by staff attorney Ryan Rutledge, and Respondents represented themselves.
19. The record closed at the end of the hearing on June 19, 2014.

## II. CONCLUSIONS OF LAW

1. The Commission may assess an administrative penalty against a person who violates a provision of the Texas Water Code within the Commission's jurisdiction or of any rule, order, or permit adopted or issued thereunder. Tex. Water Code § 7.051.
2. Respondent is subject to the Commission's enforcement authority. Tex. Water Code § 7.002.
3. Respondent was notified of the EDPRP and of the opportunity to request a hearing on the alleged violations, and the penalties and the corrective action proposed therein. Tex. Water Code § 7.055; 30 Tex. Admin. Code §§ 1.11, 70.104.
4. Respondent was properly notified of the hearing on the alleged violations and the proposed penalties and corrective action. Tex. Gov't Code §§ 2001.051, 2001.052; Tex. Water Code § 7.058; 1 Tex. Admin. Code § 155.27; 30 Tex. Admin. Code §§ 1.11, 1.12, 39.25, 70.104, 80.6.
5. SOAH has jurisdiction over matters related to the hearing in this matter, including the authority to issue a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003.
6. The ED has the burden of proof by a preponderance of the evidence in an enforcement proceeding. 30 Tex. Admin. Code § 80.17(d).
7. As shown by the findings of fact, Respondent violated 30 Texas Administrative Code § 290.110(e)(4)(A) and (f)(3) by failing to submit a Disinfectant Level Quarterly Operating Report to the ED by the tenth day of the month following the end of a quarter.
8. As shown by the findings of fact, Respondent violated 30 Texas Administrative Code §§ 290.106(e), and 290.113(e) by failing to submit the results of annual nitrate and Stage 1 disinfectant byproducts sampling to the ED for the 2012 monitoring period.
9. As shown by the findings of fact, Respondent violated 30 Texas Administrative Code §§ 290.106(e), 290.107(e) by failing to submit the results of triennial metals, minerals, synthetic organic chemical contaminants, and volatile organic chemical contaminants sampling to the ED for the January 1, 2010 through December 31, 2012 monitoring period.

10. In determining the amount of an administrative penalty, Texas Health and Safety Code § 341.049 requires the Commission to consider several factors, including the history and extent of previous violations by the violator; the violator's degree of culpability, good faith, and economic benefit gained through the violation; the amount necessary to deter future violations; and any other matters that justice may require.
11. Based on consideration of the above findings of fact and conclusions of law, the factors set out in Texas Health and Safety Code § 341.049 and the Commission's Penalty Policies, a total administrative penalty of \$873 is justified and should be assessed against Respondents, and the Respondents should be required to implement the corrective action set out below.

**NOW, THEREFORE, IT IS ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, IN ACCORDANCE WITH THESE FINDINGS OF FACT AND CONCLUSIONS OF LAW, THAT:**

1. Leroy Moody and Ernestine L. Moody d/b/a Leroy's Mobile Home Park are assessed an administrative penalty in the amount of \$873 for violation of 30 Texas Administrative Code § 290.110(e)(4)(A) and (f)(3); 30 Texas Administrative Code §§ 290.106(e), 290.113(e), and 290.107(e). The payment of this administrative penalty and Leroy Moody's and Ernestine L. Moody's compliance with all the terms and conditions set forth in this Order will completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective action or penalties for other violations that are not raised here. All checks submitted to pay the penalty assessed by this Order shall be made out to "Texas Commission on Environmental Quality." Administrative penalty payments shall be sent with the notation "Re: Leroy Moody and Ernestine L. Moody d/b/a Leroy's Mobile Home Park; Docket No. 2013-1088-PWS-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Within 30 days after the effective date of this Order, Respondent shall:
  - a. Ensure that all delinquent drinking water chemical analysis results are reported to the Executive Director or demonstrate that a compliance schedule has been established, in accordance with 30 Tex. Admin. Code §§ 290.106, 290.107, and 290.113;

- b. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that future drinking water chemical sample results are released by the Facility's laboratories and reported to the Executive Director within ten days of the Executive Director's request or of their receipt by the Facility, whichever is later, in accordance with 30 Tex. Admin. Code §§ 290.106, 290.107, and 290.113; and
  - c. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submission of signed and certified Disinfectant Level Quarterly Operating Reports, in accordance with 30 Tex. Admin. Code § 290.110.
- 3. Within 45 days after the effective date of this Order, Respondents shall submit written certification of compliance with Ordering Provision No. 2, in accordance with Ordering Provision No. 6.
  - 4. Within 90 days after the effective date of this Order, Respondents shall begin submitting Disinfectant Level Quarterly Operating Reports to the Executive Director each quarter by the tenth day of the month following the end of the quarter, in accordance with 30 Tex. Admin. Code § 290.110. This provision will be satisfied upon two consecutive quarters of compliant reporting. Disinfectant Level Quarterly Operating Reports shall be submitted to:

Water Supply Division, MC-155  
Attn: DLQOR Coordinator  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- 5. Within 285 days after the effective date of this Order, Respondent shall submit written certification in accordance with Ordering Provision No. 6 to demonstrate compliance with Ordering Provision No. 4.
- 6. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing

violations.”

Respondents shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

and

Bob Patton, Jr., Section Manager  
Public Drinking Water Section, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Commission Order.
8. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.
9. The effective date of this Order is the date the Order is final, as provided by 30 Texas Administrative Code § 80.273 and Texas Government Code § 2001.144.
10. As required by Texas Water Code § 7.059, the Commission’s Chief Clerk shall forward a copy of this Order to Respondent.
11. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any provision shall not affect the validity of the remaining portions of this Order.

Issue Date:

**TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

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**Bryan W. Shaw, Ph.D., Chairman for the Commission**